



17 July 2019

Partner: Paul Hardman
paul.hardman@klgates.com
T +61 7 3233 1248

By email: Elizabeth.Rushbrook@health.qld.gov.au

Contact: Doug Green
doug.green@klgates.com
T +61 7 3233 1263

Dr Elizabeth Rushbrook
Executive Director Medical Services
Metro North Hospital and Health Service
Level 13, Block 7
Royal Brisbane and Women's Hospital
Herston QLD 4029

Our ref: greend.hardmap.7500016.00857

Dear Dr Rushbrook

Dr William Braun

We refer to the suspension of Dr William Braun as a Visiting Medical Officer (**VMO**) with the Metro North Hospital and Health Service (**MNHHS**).

Dr Braun has not been invited or afforded an opportunity to address the allegations made against him nor to otherwise address why a suspension is neither appropriate nor warranted in the circumstances.

We provide the following submissions on behalf of Dr Braun.

1. Background

- 1.1 On 26 February 2019, the Hon. Ros Bates MP, Member for Mudgeeraba, said in Queensland Parliament that she had been contacted by medical professionals who had "raised concerns about the professional and clinical conduct of a senior general and laparoscopic surgeon". Ms Bates tabled a bundle of 9 documents (being redacted letters and emails) identifying Dr Braun (the **Tabled Documents**).

*Attached hereto and marked **WVB-1** is a copy of the Tabled Documents. The individual documents are labelled 1 through 9.*

- 1.2 On 26 February 2019, MNHHS received a copy of Ms Bates' speech and a copy of the Tabled Documents.
- 1.3 On 27 February 2019, MNHHS suspended Dr Braun's employment as a VMO pursuant to section 137(1) of the *Public Service Act 2008* (Qld) (**Public Service Act**). The suspension was expressed to be "until the outcome of the investigation is determined, or unless otherwise decided".
- 1.4 On 7 March 2019, we requested particulars of the basis upon which the MNHHS decided to suspend Dr Braun on 27 February 2019. On 18 March 2019, you confirmed that when making the decision to suspend Dr Braun, you considered that

the proper and efficient management of the MNHHS might be prejudiced by the presence of Dr Braun at Redcliffe Hospital. You noted, amongst other things, that:

- (a) Dr Braun's presence was likely to draw significant attention to the hospital;
- (b) the Tabled Documents included 2 letters which you were previously aware of which had been referred to the MNHHS Integrity Unit, and that the Integrity Unit was assessing the allegations and a conclusion was "imminent". However, you also stated that "[a]t present, there is no formal investigation underway"; and
- (c) Dr Braun's presence would prejudice the MNHHS's ability to efficiently and effectively manage the concerns raised in the Tabled Documents.

1.5 On 26 March 2019, you reviewed Dr Braun's suspension and decided that the suspension would be extended until the Office of the Health Ombudsman's (OHO) investigation had concluded.

1.6 On 4 April 2019, we requested a statement of reasons from you in relation to your decisions to:

- (a) suspend Dr Braun on 27 February 2019 (**First Suspension Decision**); and
- (b) extend his suspension on 26 March 2019 (**Second Suspension Decision**).

1.7 On 2 May 2019, you provided your statement of reasons for the First Suspension Decision and the Second Suspension Decision.

1.8 Pursuant to your letter of 26 March 2019, we anticipated you would review Dr Braun's suspension by 28 May 2019, but never received any correspondence from you. In anticipation of you conducting a further review at a later date, on 17 June 2019, we provided you with a copy of Dr Braun's submissions.

1.9 On 4 July 2019, you informed us that you had purportedly reviewed Dr Braun's suspension on 28 May 2019, at which time you had decided to maintain Dr Braun's suspension for the period of the OHO investigation (**Third Suspension Decision**).

1.10 On 10 July 2019, we informed you that we never received a copy of the Third Suspension Decision, and requested a copy as a matter of urgency.

1.11 On 12 July 2019, you provided us with a copy of the Third Suspension Decision, and informed us that there had been an administrative error and the decision was never sent to us. You also noted that you did not resolve to send us the Third Suspension Decision until 31 May 2019.

2. Section 137 of the Public Service Act

2.1 Section 137(1) of the Public Service Act provides:

The chief executive of a department may, by notice, suspend a public service officer from duty if the chief executive reasonably believes the proper and efficient management of the department might be prejudiced if the officer is not suspended.

2.2 Section 137(1) empowers the chief executive to suspend an employee if the chief executive, or delegate, "reasonably believes" that proper and efficient management of the MNHHS might be prejudiced if the employee is not suspended (the suspension power).

2.3 In *George v Rockett* (1990) 170 CLR 104 at 112, the High Court said that:

When a statute prescribes that there must be 'reasonable grounds' for a state of mind [such as a belief] it requires the existence of facts which are sufficient to induce that state of mind in a reasonable person.

2.4 Thus, the suspension power is only enlivened if there exists "sufficient" facts to induce in the "mind of a reasonable person" a belief that "the proper and efficient management" of the health service "might be prejudiced" if the power is not exercised.

2.5 Here, the power has been purportedly exercised because of allegations which are the subject of investigation. The mere fact that there are allegations which are the subject of investigation is not itself sufficient to induce in the "mind of a reasonable person" a belief that "the proper and efficient management" of the health service "might be prejudiced" if the power is not exercised in this case. Otherwise, the suspension power would be open to abuse by persons who could make allegations for ulterior purposes in order to trigger an investigation that would inevitably lead to the exercise of the suspension power.

2.6 Accordingly, it is necessary to consider more than the fact that there are allegations which are the subject of investigation. It is essential to the lawful exercise of the suspension power that there be a proper, genuine and realistic consideration of whether there exists "sufficient" facts to induce in the "mind of a reasonable person" a belief that "the proper and efficient management" of the health service "might be prejudiced" if the power is not exercised in this case.

3. The Allegations

3.1 We respectfully submit that the allegations in the Tabled Documents are not sufficient to induce in the "mind of a reasonable person" a belief that "the proper and efficient management" of the health service "might be prejudiced" if the power is not exercised in this case.

3.2 The allegations (generally speaking) fall within the following categories:

(a) allegations which have been the subject of previous investigations by a regulatory or statutory body, and which have either:

(i) found to be unsubstantiated; or

(ii) have otherwise been dealt with appropriately

after appropriate investigation by a relevant body;

(the previously dealt with allegations)

(b) allegations which relate to incidents or persons outside of the MNHHS, from which it cannot be inferred that Dr Braun's presence at a MNHHS facility

impacts on the conduct of an investigation into those allegations (**the non-MNHHS allegations**); and

- (c) allegations which, even if they were true, are not of such a nature that they would ordinarily warrant the suspension of an employee (**the non-suspension allegations**).

3.3 In respect of these categories, it is submitted that:

- (a) The previously dealt with allegations have been dealt with by the MNHHS and the Australian Health Practitioner Regulation Agency (AHPRA) generally speaking some years ago. They have either been found to be unsubstantiated or otherwise appropriately dealt with. Clearly, it has been thought that Dr Braun could appropriately carry out the conditions of his employment without issue after the previous resolution of those issues. Unless some fundamental flaw is found in those earlier investigations then the allegations the subject of those earlier allegations could not provide a basis to suspend Dr Braun's employment. The prospect of such a fundamental flaw being found in the recent re-investigation of those matters is highly improbable. Accordingly, the fact that they are under investigation again could not induce "in the mind of a reasonable person" a belief that "the proper and efficient management" of the health service "might be prejudiced" if the power is not exercised pending the finalisation of those investigations.
- (b) Dr Braun's presence at a MNHHS facility cannot prejudice an investigation into the non-MNHHS allegations. Similarly, it cannot be said that Dr Braun's presence at a MNHHS facility impacts on or prejudices the ability for witnesses who do not work at a MNHHS facility to provide any evidence they may wish to give in respect of those allegations.
- (c) the non-suspension allegations are of such a nature that, even if they were substantiated, they cannot be said to give rise to a legitimate concern that the proper administration of the MNHHS would be prejudiced if Dr Braun continued to work while those allegations are being investigated.

4. Detriment to Dr Braun

- 4.1 The exercise of the discretionary power to suspend an employee requires a consideration of the impact of the suspension on the employee, in particular, the detriment to Dr Braun caused by the suspension.
- 4.2 For reasons including those set out below, the decision to suspend Dr Braun has caused Dr Braun significant detriment.

Financial loss

- (a) Dr Braun has suffered significant financial loss as a result of the suspension.
- (b) Dr Braun estimates that he has lost income from his private (intermediate) operating sessions at MNHHS of approximately \$50,000 per month.
- (c) Further, Dr Braun's suspension from the MNHHS prompted Ramsay Health Care to effectively suspend Dr Braun's surgical lists until he has access to overnight facilities with ICU (which he had prior to his suspension from the

MNHHS). Dr Braun estimates that the income lost from his surgical lists at Ramsay facilities is approximately \$200,000 per month.

- (d) Since his suspension commenced on 27 February 2019, Dr Braun has lost approximately \$1,125,000 in income, even taking into account that he was suspended on full pay from the MNHHS.

Reputational damage

- (e) It is undeniable that Dr Braun's reputation has been affected by the attention brought about (at least in part) by his suspension.
- (f) While Dr Braun has been informed he has the support of many of his colleagues, he understands that some assume that because the MNHHS elected to suspend him, he must be "guilty" of the allegations.
- (g) While contrary to the legal presumption that a person is not guilty of allegations unless they are proved to the requisite standard, the perceived gravity of the act of suspending a doctor conveys to many a presumption of guilt (akin to "the MNHHS would not have taken such a drastic step if there was no truth to the allegations").
- (h) The extent of the damage to Dr Braun's reputation will not be known until after the suspension has been lifted, but it is uncontroversial to suggest that the suspension has, and will continue to have, a significant impact on Dr Braun's reputation.

Patient care

- (i) Patient care is of paramount importance in Dr Braun's practice.
 - (j) Dr Braun considers that post-operative attendance on his patients is a crucial aspect of providing care, as it enables him to monitor their recovery and address any complications that may arise, while also allowing him to interact with his patients in a manner that provides them with reassurance that they are receiving the best care possible.
 - (k) Dr Braun's suspension prohibits him from attending MNHHS facilities. Consequently, Dr Braun cannot attend to his post-operative patients to check on their progress, identify whether any further treatment is required and assist them with their transition to post-operative rehabilitation.
 - (l) If, in the unlikely event that any of Dr Braun's patients were admitted and required management of post-operative complications (early, intermediate or late), Dr Braun would not be in a position to provide care to those patients.
 - (m) Not only is this detrimental to Dr Braun's patients, such an absence of post-operative care is the basis of a number of the allegations made against Dr Braun, to which a suspension is only perpetuating the alleged conduct (conduct which is denied).
- 4.3 The detriment caused by Dr Braun's suspension is clearly significant, and will unquestionably increase the longer the suspension is maintained.

4.4 At present, there is no foreseeable end to Dr Braun's suspension. While at the First Suspension Decision, Dr Braun's suspension was for the length of the (assumed to be internal MNHHS) investigation, at the Second Suspension Decision, the suspension was changed to be for the duration of the OHO investigation. The Third Suspension Decision confirms that you intend on maintaining the suspension until the OHO has finalised its investigation.

4.5 It is well known that OHO investigations generally take a number of months (commonly even years) to be completed.

4.6 The detriment to Dr Braun if his suspension is maintained for such an extended period is devastating, and may result in the ultimate collapse of his professional practice.

5. Vexatious allegations

5.1 The power to suspend an employee is, as section 137(1) of the Public Service Act provides, to be used for the proper and efficient administration of the MNHHS. It is not a power intended to be used in response to, or in circumstances suggesting, allegations of a frivolous, vexatious or malicious nature.

5.2 Dr Braun is aware of a faction within the medical community who he understands wish to do his practice harm, and who have made highly critical and potentially defamatory comments about him for a number of years.

5.3 Dr Braun is aware that in August 2016, Dr Nicholas O'Rourke emailed a number of senior medical administrators, including Craig Margetts, Judy Graves, Barry O'Loughlin, Philip Truskett, Richard Bryant, Michael Donovan and Donna O'Sullivan. In numerous email exchanges, Dr O'Rourke alleged that Dr Braun had engaged in inappropriate conduct (of a sexual or harassing nature).

5.4 Dr Margetts informed Dr O'Rourke that these allegations had been subject to an internal MNHHS investigation and that he would ascertain whether there had been allegations made since the formal investigation was undertaken.

*Attached hereto and marked **WVB-2** is a copy of the email of an email exchange between Dr O'Rourke and senior medical administrators in August 2016.*

5.5 Following Dr O'Rourke's email, Denise MacGregor, the Director of Surgery, emailed Dr Margetts noting that issues raised by Dr O'Rourke were a "rehash of previous issues which had been closed", and that that Dr Braun was "suffering potential impact upon his [Dr Braun's] reputation and practice without any new issues being brought forward".

*Attached hereto and marked **WVB-3** is a copy of an email from Denise MacGregor to Dr Margetts dated 7 September 2016.*

5.6 On 26 September 2016, Dr Braun met with Dr Margetts to discuss the allegations raised by Dr O'Rourke, and it was confirmed that the allegations had been dealt with previously and were found to be unsubstantiated and therefore resolved.

*Attached hereto and marked **WVB-4** is a copy of a letter from Dr Margetts summarising the outcome of the meeting on 26 September 2016.*

5.7 Despite this finding, Dr Braun is aware that members of the medical community have continued with their commentary regarding Dr Braun and the allegations from the past.

5.8 Dr Braun has made formal complaints to the Royal Australasian College of Surgeons (RACS) and the MNHHS, including as recently as 16 January 2019, when Dr Braun lodged a formal complaint with the MNHHS regarding Dr Bree Hobbins King (nee Stephensen).

Attached hereto and marked WVB-5 is a copy of the complaint lodged by Dr Braun on 16 January 2019.

5.9 Following Dr Braun's complaint on 16 January 2019, on 20 January 2019:

(a) Dr Robert Finch left Dr Braun a voicemail informing Dr Braun that they needed to talk;

(b) Dr Finch then texted Dr Braun:

Hey Professor! You are a bully and sexual harasser. We all know of the multiple complaints made against you. If you really want a legal stoush with one of our colleagues understand that there are many of us who will stand with her. The truth is a very good defence for defamation.

(c) Dr Braun later returned Dr Finch's call, and recalls words were said to the effect that:

[Dr Finch] If you want to start a legal stoush with Bree [Dr Hobbins King] then we will stand against you. She is not the only one that has made those claims, we are all aware of them. You are being a bully acting against her with legal letters.

[Dr Braun] Why did you call me to speak with me? Are you trying to bully me and threaten me?

[Dr Finch] No this is just a conversation two colleagues need to have. You can choose to behave sensibly or be belligerent, but be careful of what you ask for or we will come after you and this will become a shit storm for you.

5.10 Dr Braun suspects that following this exchange on 20 January 2019, action was taken by members of the faction referred to above. Relevantly:

(a) the Tabled Documents contain 7 documents with date references. Of those 7 documents, 4 are dated after Dr Finch's telephone call with Dr Braun;

(b) Dr Braun was informed by a colleague that she had been approached in February 2019 by a doctor who had requested that she lodge a formal complaint against Dr Braun, which she refused to do as the allegations were baseless. This colleague recognises that the document labelled "1" was written by the doctor who had approached her, and has made the allegations that she refused to make; and

- (c) on the basis of the above, Dr Braun understands that the document labelled "1" in the Tabled Documents, while undated, was likely prepared in February 2019.

5.11 It is apparent that of the 9 documents tabled, at least 5 were written after Dr Braun's complaint about Dr Hobbins King, and after Dr Finch threatened to create a "shit storm" for Dr Braun if he did not act sensibly in relation to his complaint regarding Dr Hobbins King.

5.12 Further, following the tabling of documents in Parliament, Dr Finch appeared on ABC News on 28 March 2019 publicly expressing his (and allegedly other senior surgeons') "concerns" regarding Dr Braun (viewable at <https://media.streem.com.au/player/MYmTUg>), in circumstances where there was no genuine reason for Dr Finch to speak to the media.

6. The Tabled Documents – the allegations

6.1 Dr Braun provides the following submissions in relation to the allegations in the Tabled Documents.

Document 1 – undated letter to unknown addressee

6.2 The author of this letter alleges that:

- (a) Dr Braun engaged in inappropriate sexual behaviours with female staff (**Allegation 1**);
- (b) a patient of Dr Braun's suffered a post-operative haemorrhage and leak, caused by Dr Braun's surgical technique and failure to diagnose the complication (**Allegation 2**);
- (c) a patient of Dr Braun's developed a serious complication following a sleeve gastrectomy, which Dr Braun failed to recognise and manage effectively. It is also alleged that Dr Braun failed to properly inform the patient of the financial implications and obtain the patient's informed consent (**Allegation 3**);
- (d) Dr Braun discharged a patient who had a complication and who was subsequently admitted to the Mater Hospital where further surgery was required (**Allegation 4**); and
- (e) Dr Braun lowered his pants in an operating theatre (**Allegation 5**).

Allegation 1

- 6.3 The author alleges that Dr Braun engaged in inappropriate sexual behaviours towards female staff. It is clear that the author does not have knowledge of these alleged events, and is merely repeating what others have told the author.
- 6.4 While no dates for these alleged behaviours are provided, Dr Braun recognises many of these allegations to be the same as those previously alleged in 2013.
- 6.5 Between 2013 and 2014, the MNHHS conducted a thorough investigation into Dr Braun's interactions with staff members.

*Attached hereto and marked **WVB-6** is a copy of an MNHHS Investigation Report.*

*Attached hereto and marked **WVB-7** is a copy of a letter from Angela Wilke dated 4 September 2014 with the conclusion to the MNHHS investigation.*

- 6.6 The MNHHS also referred the allegations it investigated to AHPRA, which conducted its own investigation.

*Attached and marked **WVB-8** is a copy of a letter from Suzette Land dated 1 September 2015 with the findings of the AHPRA investigation.*

- 6.7 Among the issues considered in these investigations were Dr Braun's interactions with female staff, including whether these interactions were sexually inappropriate.
- 6.8 In respect of the alleged incidents of inappropriate behaviour not previously subject to an investigation, it is submitted that:
- (a) the alleged victim [REDACTED] does not work at a MNHHS facility;
 - (b) she is a close personal friend of Dr Braun, and the interactions between them were not considered by either party as sexually inappropriate; and
 - (c) when approached and requested to make a complaint against Dr Braun, the alleged victim made clear that the allegations were baseless and she would not be making such a complaint against Dr Braun.
- 6.9 In respect to Allegation 1, it is clear that:
- (a) many of the instances referred to by the author were the subject of previous investigations by the MNHHS and AHPRA; and
 - (b) the remaining instances relate to a female colleague who works at a private institution outside of the MNHHS. It cannot be said that the exercise of the discretion to suspend Dr Braun was required to enable an investigation to be completed.
- 6.10 Further, any suggestion that female surgical trainees have been barred from working with Dr Braun is denied and clearly untrue, as Dr Braun presently works with a female registrar, Dr Emily Olive, and has had multiple female trainees within his unit over the past 4 years.

Allegation 2

- 6.11 The author alleges that he attended to one of Dr Braun's patients who suffered a post-operative haemorrhage and leak, caused by Dr Braun's surgical technique and failure to diagnose the complication.
- 6.12 Dr Braun understands that the patient referred to is [REDACTED] who underwent a sleeve gastrectomy on 9 March 2015.
- 6.13 Dr Braun has discussed this patient previously with Dr Hatzifotis who informed Dr Braun that he did not see an issue with Dr Braun's surgery.

- 6.14 In the interests of continuing professional development, Dr Braun undertook a Carramar Education course on 23 February 2017 focussed on the post-operative assessment and management of post-operative complications regarding the gastric sleeve and ring. The workshop component of this education program was facilitated by Dr Hatzifotis and Jennifer Craig.

*Attached hereto and marked **WVB-9** is a copy of the Carramar Education report.*

Allegation 3

- 6.15 The author alleges that he attended to one of Dr Braun's patients who developed a serious complication following a sleeve gastrectomy which Dr Braun failed to recognise and manage effectively, and that Dr Braun failed to properly inform the patient of the financial implications of surgery and obtain the patient's informed consent.
- 6.16 Dr Braun understands that the patient referred to is [REDACTED] who underwent a sleeve gastrectomy on [REDACTED]
- 6.17 This allegation was the subject of an AHPRA investigation in 2017.

*Attached hereto and marked **WVB-10** is a copy of a letter from Tom Hall dated 17 May 2017 with the findings of the AHPRA investigation.*

Allegation 4

- 6.18 The author alleges that Dr Braun discharged a patient who had a complication and was required to be admitted to the Mater Hospital where further surgery was required. The author does not have firsthand knowledge of this event and relies on being told by others of their version of events.
- 6.19 Dr Braun understands that the patient referred to is [REDACTED] who underwent a Roux-en-Y gastric bypass.
- 6.20 [REDACTED] discharged herself against the advice of Dr Braun, and was taken to the Mater Hospital by ambulance later that day. Following her surgery at the Mater, she requested to be transferred back to the care of Dr Braun.
- 6.21 At no time prior to this allegation has any concern been raised about Dr Braun's management of [REDACTED]. The author was not involved in [REDACTED] treatment or care, and cannot know the intimate details of her circumstances.

Allegation 5

- 6.22 The author alleges that Dr Braun lowered his pants in an operating theatre. It is clear that the author does not have knowledge of these alleged events, and is merely repeating what others have told the author.
- 6.23 Dr Braun denies that this event occurred, and denies this allegation.
- 6.24 Further, even if this allegation were true (which is denied), the allegation is not of the nature such that it would warrant a suspension.

Document 2 – letter dated 13 February 2019 to unknown addressee

6.25 The author alleges that:

- (a) Dr Braun was often absent from clinics (**Allegation 6**);
- (b) Dr Braun used foul language (**Allegation 7**);
- (c) Dr Braun would rush procedures (**Allegation 8**); and
- (d) Dr Braun was uncontactable when his patient suffered a complication following a sleeve gastrectomy, and the patient was required to be transferred to the Royal Brisbane and Women's Hospital (RBWH) (**Allegation 9**).

Allegation 6

6.26 The author alleges that Dr Braun was often absent from his clinics and would spend time in the "tea room" on his phone, requiring the junior staff see him in the tea room to discuss patients.

6.27 Dr Braun denies this allegation and submits that he was in attendance at his clinics. Dr Braun conducted his clinics in a manner that he felt facilitated a learning environment for his junior doctors. Dr Braun did this by directing the junior doctors to attend to the patient and then discuss the management plan for the patient with him. Where patients presented with complex problems, Dr Braun would attend to the patients instead of the junior doctor.

6.28 Further, even if this allegation were true (which is denied), the allegation it is not of the nature such that it would warrant a suspension.

Allegation 7

6.29 The author alleges that Dr Braun often used foul language.

6.30 Dr Braun denies that he often used foul language at the hospital. Dr Braun admits that at times he used expletives, but says that those occasions were exceedingly rare.

6.31 Further, even if this allegation were true (which is denied), the allegation it is not of the nature such that it would warrant a suspension.

Allegation 8

6.32 The author alleges that Dr Braun would rush procedures so he could leave the hospital.

6.33 No specific events or incidents are referred to in this letter, which makes it difficult for Dr Braun to ascertain what the allegation is based on.

6.34 Notwithstanding the vague nature of the allegation, Dr Braun denies ever rushing a procedure, as to do so may compromise the integrity of his surgery.

6.35 Further, even if this allegation were true (which is denied), the allegation it is not of the nature such that it would warrant a suspension.

Allegation 9

- 6.36 The author alleges that Dr Braun was uncontactable when a patient suffered complications from a sleeve gastrectomy and was subsequently transferred to the RBWH, and that upon hearing that the patient was transferred, Dr Braun became angry and swore at the junior doctor while poking him with his index finger.
- 6.37 ~~Dr Braun has not had a patient suffer a complication from a sleeve gastrectomy requiring transfer to the RBWH in the past 3 years, and understands that the author's recollection is incorrect.~~
- 6.38 Dr Braun and his associate, Dr Wong, have an arrangement to cover the other's patients when they are away. Dr Braun understands that the registrar would have spoken with Dr Wong, and he does not know why the patient was transferred.
- 6.39 Dr Braun recalls informing the registrar that Dr Braun and Dr Wong take care of their complications and patients should not be transferred unless he and Dr Wong are unavailable or the transfer is clinically required.
- 6.40 Dr Braun denies poking or being aggressive to the registrar during this exchange.
- 6.41 Further, even if this allegation were true (which is denied), the allegation it is not of the nature such that it would warrant a suspension.

Document 3 – email dated 16 February 2019 to unknown addressee

- 6.42 The author alleges that Dr Braun told [REDACTED] she could repay him with sexual favours (**Allegation 10**).

Allegation 10

- 6.43 The author alleges having overheard some nurses saying that Dr Braun had told a [REDACTED] she could repay him with sexual favours. The author does not have knowledge of this alleged event, other than overhearing others speak about what can only be described as "gossip".
- 6.44 This allegation is related to Allegation 1, and repeats the same alleged event.
- 6.45 As submitted in Allegation 1:
- (a) the alleged victim [REDACTED] does not work at a MNHHS facility;
 - (b) she is a close personal friend of Dr Braun, and the interactions between them were not considered by either party as sexually inappropriate; and
 - (c) when approached and requested to make a complaint against Dr Braun, the alleged victim made clear that the allegations were baseless and she would not be making such a complaint against Dr Braun.
- 6.46 Further, even if this allegation were true (which is denied), the alleged victim does not work at an MNHHS facility, and Dr Braun's presence at a MNHHS facility cannot be said to interfere with the alleged victim's ability to give evidence or participate in an investigation.

Document 4 –letter dated 5 May 2018 to Dr Judy Graves

6.47 The author alleges that:

- (a) Dr Braun performed a gastric bypass before going on extended leave, during which time complications arose which required further surgery (**Allegation 11**); and
- (b) Dr Braun performed a Roux-en-Y bypass and fixed ring surgery for a patient who was later readmitted with severe abdominal pain and sepsis requiring further surgery to remove the fixed ring (**Allegation 12**).

Allegation 11

- 6.48 The author alleges that Dr Braun operated on a patient and went on extended leave the following day. Following the patient's discharge, the patient was readmitted and transferred to the RBWH, where the author undertook further surgery.
- 6.49 Dr Braun understands that the patient referred to is [REDACTED]
- 6.50 [REDACTED] was first operated on by Dr Braun's colleague, Dr Wong, on 29 June 2017. [REDACTED] gained weight rather than losing it (the intended function of the surgery) and requested that Dr Braun perform further surgery.
- 6.51 Dr Braun informed [REDACTED] that he would be on extended leave over the Christmas break, and he and [REDACTED] agreed that Dr Wong would provide post-operative care to [REDACTED]. In accordance with this medical plan, Dr Braun performed the surgery on 19 December 2017 and Dr Wong assumed post-operative care the next day.
- 6.52 Dr Braun understands that [REDACTED] was not satisfied with the treatment that he received at the RBWH, and returned to Dr Braun's care on 6 February 2019.
- 6.53 This patient has been the subject of audit meetings both within the MNHHS and at North West Private Hospital with no management issues identified.

Allegation 12

- 6.54 The author alleges that Dr Braun performed a Roux-en-Y bypass and fixed ring surgery on a patient who was later re-admitted with severe abdominal pain and sepsis requiring further surgery to remove the fixed ring. While the patient was recovering at the RBWH, the author alleges that Dr Braun attended the patient and stated that he believed the patient required further surgery.
- 6.55 Dr Braun understands that the patient referred to is [REDACTED]
- 6.56 Dr Braun performed [REDACTED]'s surgery on 12 December 2017, and recalls that she was discharged home on 14 December 2019 showing positive recovery indications. [REDACTED] re-attended the hospital on 16 December 2017 and Dr Braun performed further surgery. Dr Wong assumed care of [REDACTED] on 20 December 2017.
- 6.57 Dr Braun recalls attending [REDACTED] together with Dr Wong to check on her recovery at the RBWH, but denies either of them commented on the care she was receiving or whether she required further surgery.

- 6.58 This patient has been the subject of audit meetings (2 times at Redcliffe Hospital and once at The Prince Charles Hospital during a tri-unit audit meeting) with no management issues identified.

Document 5 –letter dated 26 April 2018 to Dr Judy Graves

- 6.59 The author alleges that Dr Braun performed a sleeve gastrectomy in 2015 for which the patient suffered septic complications which were managed at various institutions before the patient was sent to Sydney to conceal the complications from colleagues (**Allegation 13**).

Allegation 13

- 6.60 Dr Braun understands that the patient referred to is [REDACTED].
- 6.61 Dr Braun performed a sleeve gastrectomy for [REDACTED] on 26 September 2015. [REDACTED] developed complications which Dr Braun treated.
- 6.62 When the complications persisted (despite Dr Braun's appropriate management of the patient), Dr Braun discussed the patient with Associate Professor Michael Talbot in Sydney, a specialist in upper gastrointestinal surgery and bariatric surgery, and paid for [REDACTED] to fly to Sydney to attend Professor Talbot for a second opinion.
- 6.63 While complications persisted, they were not of such a nature that [REDACTED] required hospitalisation. As such, Dr Braun treated [REDACTED] as an outpatient.
- 6.64 Any suggestion that Dr Braun was trying to move this patient between institutions to avoid detection is unfounded and denied. Dr Braun sought specialist medical opinion from an eminent upper gastrointestinal surgeon, which was a prudent action to take when complications persisted.

Document 6 –letter dated 28 February 2017 to Kellee Slater

- 6.65 The author alleges that Dr Braun engaged in bullying behaviours towards the author (**Allegation 14**).

Allegation 14

- 6.66 The author alleges that Dr Braun engaged in bullying behaviours while the author was employed at Redcliffe Hospital.
- 6.67 Allegations that Dr Braun behaved in a bullying manner towards the author were considered as part of the MNHHS's investigation in 2014, and Dr Braun understands that the author's letter is referring to those allegations previously investigated.

Document 7 – undated letter to unknown addressee

- 6.68 The author alleges that they were informed by former trainees of Dr Braun's that he had engaged in bullying behaviours and otherwise inappropriate conduct with the trainees (**Allegation 15**).

Allegation 15

- 6.69 The author alleges that they contacted ten former trainees, nine of whom informed the author of difficult experiences working with Dr Braun.
- 6.70 While the author's letter is not dated, it refers to being made aware of these allegations in 2016, and contacting ten former trainees. It is therefore evident that the author must be referring to trainees dating prior to 2016, most likely during the period from 2010 to 2015.
- 6.71 Allegations that Dr Braun behaved in a bullying and inappropriate manner towards trainees were considered as part of the MNHHS's investigation in 2014, where it is apparent that trainees (including former trainees) were interviewed as part of the investigation, and Dr Braun understands that the author's letter is referring to those allegations previously investigated.

Document 8 –letter dated 23 January 2019 to unknown addressee

- 6.72 The author alleges that:
- (a) Dr Braun told her she would not be successful, that he rubbed up against her during a procedure, and that he requested she alter records (**Allegation 16**);
 - (b) Dr Braun arrived an hour late to a surgery and berated her for taking so long (**Allegation 17**); and
 - (c) Dr Braun was not contactable, and when he was, he refused to attend the patient while they were conscious (**Allegation 18**).

Allegation 16

- 6.73 The author alleges that Dr Braun told her that she would not be a successful surgeon, that he rubbed up against her during an endoscopy procedure and that he asked her to alter the recorded withdrawal time.
- 6.74 Dr Braun understands that the author's letter is referring to allegations previously investigated by the MNHHS in 2014.

Allegation 17

- 6.75 The author alleges that she requested Dr Braun assist her with a surgery on a large abdominal wall lipoma, which Dr Braun brushed off. The author alleges that Dr Braun arrived an hour late to surgery and berated her for taking so long to do the excisions.
- 6.76 Dr Braun understands that the author's letter is referring to allegations previously investigated by the MNHHS in 2014.

Allegation 18

- 6.77 The author alleges that she was unable to reach Dr Braun while he was on call when a patient entered the emergency department with a suspected incarcerated/strangulated hernia. The author alleges that she contacted Dr Braun who was playing tennis, and when he arrived, he refused to assess the patient while they were conscious, and instead sat in the tea room. The author further alleges that

during the surgery, Dr Braun disagreed with her diagnosis and then made fun of her during the ward rounds.

- 6.78 Dr Braun recalls that he attended as soon as he was informed of the situation – which he recalls as being approximately 10 minutes after the author tried to call him. Dr Braun denies that he refused to see the patient, because when he arrived, the patient was already on the operating table.
- 6.79 Dr Braun admits that he did not agree with the author's diagnosis, as there was in fact no hernia, and Dr Braun was disappointed that the patient had been taken into the theatre instead of having further investigations conducted.
- 6.80 Dr Braun understands that the author's letter is referring to allegations previously investigated by the MNHHS in 2014.

Document 9 –letter dated 22 February 2019 to unknown addressee

- 6.81 The author alleges that Dr Braun admitted a patient and subsequently travelled to Europe without arranging for adequate cover (**Allegation 19**).

Allegation 19

- 6.82 The author alleges that Dr Braun admitted a patient before travelling to Europe without arranging for surgical cover, leaving the patient without a primary doctor.
- 6.83 Dr Braun denies that he did not arrange for surgical cover, and says that he arranged for Dr Hugh McGregor to provide surgical cover for this patient and Dr George Hopkins to provide advice as necessary.
- 6.84 Dr Braun recalls that this was discussed with the hospital at a morbidity and mortality meeting, where no criticisms were raised.
- 6.85 Further, even if this allegation were true (which is denied), the allegation it is not of the nature such that it would warrant a suspension.

7. Dr Braun's further training

- 7.1 Dr Braun recognises and accepts that his behaviour at times (which led to the investigations by the MNHHS and AHPRA between 2013 and 2015) was below the standard it ought to have been.
- 7.2 Following the MNHHS investigation, Dr Braun undertook a one-on-one training course with the Cognitive Institute focused on dealing with difficult interactions with colleagues tailored to the concerns raised in the MNHHS investigation.

*Attached hereto and marked **WVB-11** is a copy of a certificate of completion for the Cognitive Institute program.*

- 7.3 Dr Braun also undertook a supervisor's course in June 2014 run by the MNHHS.

*Attached hereto and marked **WVB-12** is a copy of a letter from Dr Craig Margetts dated 16 July 2015 attaching a copy of a certificate of completion for the supervisor's course.*

- 7.4 In a letter to the Chair of the Medical Board of Australia in July 2015 (attached as **WVB-12**), Dr Craig Margetts stated there had been no documented complaints about Dr Braun, and that staff at the MNHHS reported an improvement in Dr Braun's attitude and behaviour. Similarly, in a letter to AHPRA, Dr Roderick Borrowdale, the director of surgery at Redcliffe Hospital, stated that there had been a noticeable improvement in Dr Braun's behaviour and there was no suggestion that the allegations which the MNHHS investigated were being repeated. Dr Borrowdale considered Dr Braun to be receptive, patient, constructive and supportive towards trainees.

*Attached hereto and marked **WVB-13** is a copy of a letter from Dr Roderick Borrowdale dated 10 July 2015.*

- 7.5 Since the MNHHS investigation, Dr Braun has also continued to work on and develop his skills as a surgeon, including undertaking:
- (a) a Carramar Education course in 2017 (attached as **WVB-9**) to further develop his skills in assessing and managing post-operative complications; and
 - (b) a 1.5 day continuing professional development course presented by RACS in June 2018 on "Surgeons as Leaders in Everyday Practice", which focussed on interactions with staff in a surgeon's working environment.

*Attached hereto and marked **WVB-14** is a copy of the Surgeons as Leaders in Everyday Practice course outline.*

- 7.6 Dr Braun is presently undertaking the Surgical Leadership Program at Harvard Medical School. This 1 year course provides a comprehensive curriculum addressing topics for senior medical practitioners, including techniques for being an effective leader, communicator and surgical administrator.

*Attached hereto and marked **WVB-15** is a copy of the Surgical Leadership Program curriculum.*

- 7.7 Dr Braun is also presently undertaking his Juris Doctor degree at Bond University, and is due to complete this degree in August 2019.

8. Conclusion

- 8.1 Having regard to all the circumstances expressed in this submission, it is respectfully submitted that the decision to suspend Dr Braun is not necessary for the efficient and proper management of the MNHHS.
- 8.2 The fair and reasonable action to be taken in these circumstances is for Dr Braun's suspension to be lifted and for the allegations to be addressed as they would in the ordinary course of an investigation.

We require your response by **close of business 24 July 2019**.

We thank you in anticipation of your due consideration of these submissions on behalf of Dr Braun.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Paul Hardman', written over a horizontal line.

Paul Hardman
Partner